

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 30, 2012

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 08MD-120

MAUI

Approval in Principle for Acquisition of Private Lands and Set Aside to County of Maui for Expansion of Maui Veterans Cemetery, Makawao, Island of Maui, Tax Map Key: (2) 2-4-002: por.007.

APPLICANT AGENCY:

State of Hawaii Department of Accounting and General Services on behalf of Department of Defense Office of Veteran Services.

PRIVATE LANDOWNER:

Jordan Santos, a married man, is in the process of acquiring a tract of land including the subject property from current landowner Paul Turner, and, upon its acquisition, has expressed his intent to immediately sell the subject property to the State of Hawaii.

LEGAL REFERENCE:

Sections 107-10, 171-11 and 171-30, Hawaii Revised Statutes, as amended, and Chapter 101, HRS, as may be necessary.

LOCATION:

Privately-owned lands situated at Makawao, District and Island of Maui, identified by Tax Map Key: (2) 2-4-002: por.007, as shown on the attached map and description labeled Exhibit A.

AREA:

10.0 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Maui CZO: 5-Agricultural (all island)

CURRENT USE:

Vacant and unencumbered.

CONSIDERATION:

One-time payment to be determined by independent appraiser, subject to review and approval by the Chairperson.

PURPOSE:

For military veterans cemetery development purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 343-5(a)(1), HRS, an environmental assessment (EA) is not required where State or county funds are being used for the acquisition of unimproved real property. As the subject lands are unimproved, an EA is not required. However, inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be responsible for the following:

- 1) Payment for the appraisal cost to determine the value of the properties to be acquired;
- 2) Processing and obtaining subdivision approval at Applicant's own cost;
- 3) Providing survey maps and descriptions for the privately-owned property according to State DAGS standards and at Applicant's own cost;
- 4) Obtaining a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department;
- 5) Paying for and conducting a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conducting a Phase II environmental sampling and analysis plan and performing any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

REMARKS:

The Office of Veteran Services (OVS) of the Hawaii State Department of Defense (DOD) reports that the existing 7.0 acre Veterans Cemetery in Makawao, Maui, under the control and management of the County of Maui pursuant to Executive Order No. 3279, is imminently nearing full occupancy. With an estimated only one to two years of capacity remaining, the urgency of securing an expansion site only increases as time goes by.

DOD also reports that an opportunity to acquire land immediately adjacent to the existing cemetery site has been offered by Mr. Jordan Santos of Makawao. He is currently in the process of acquiring a tract of land adjacent to the Veterans Cemetery from private landowner Paul Turner, and has expressed his intention, upon its acquisition, to immediately sell a 10.0 acre portion to the State of Hawaii for the Veterans Cemetery expansion. The two parties have agreed to detail the planned transactions in escrow instructions to ensure that their wishes are followed as referenced in Exhibit B.

The DOD obtained a legislative appropriation of \$5.3 million in 2011 for the acquisition, planning and design, and construction of the cemetery expansion, and has since been working closely with the Department of Accounting and General Services (DAGS) Planning Branch on plans for the expenditure of those funds.

In June 2012, a subdivision application for the 10.0 acres was submitted by the current landowner to the County of Maui, which the County estimated would take approximately six months to process. DAGS staff are poised to implement the planning and design process as soon as acquisition is completed.

Maui County has agreed to take over operations and management of the Veterans Cemetery expansion via a set aside by Executive Order of the subject property. A letter from their Department of Public Works is attached for reference as Exhibit C.

As time is of the essence, DOD and DAGS would like to obtain preliminary approval from the Land Board to help expedite the due diligence requirements of the planned acquisition.

RECOMMENDATION: That the Board:

1. Authorize the acquisition of the subject private lands under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current deed document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney

General;

- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Maui County under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



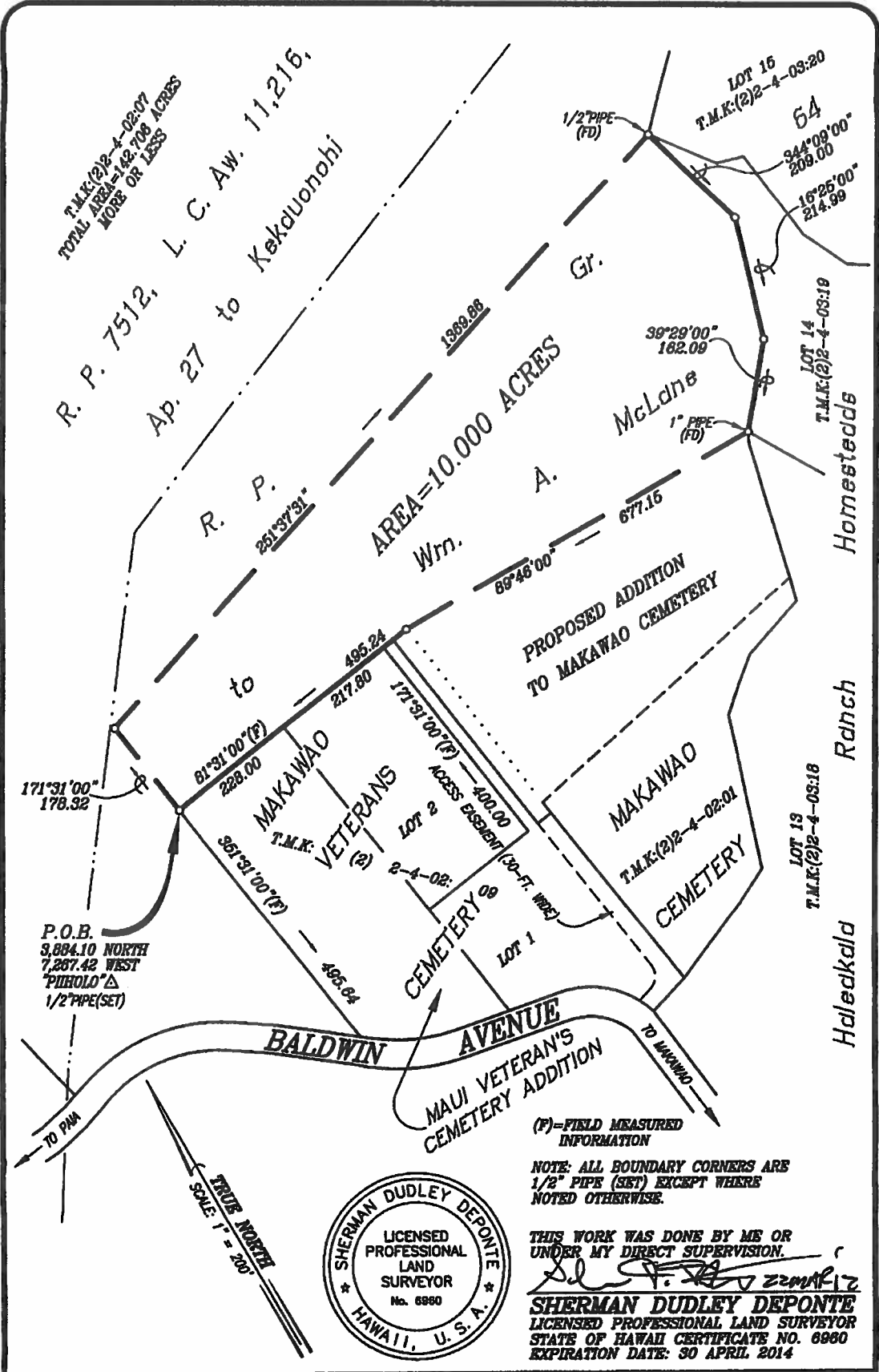
Barbara Lee
Project Development Specialist

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





P.O.B.
 3,884.10 NORTH
 7,287.42 WEST
 PIHOLE Δ
 1/2" PIPE (SET)

(F) = FIELD MEASURED INFORMATION
 NOTE: ALL BOUNDARY CORNERS ARE 1/2" PIPE (SET) EXCEPT WHERE NOTED OTHERWISE.

THIS WORK WAS DONE BY ME OR UNDER MY DIRECT SUPERVISION.
Sherman Dudley Deponte
SHERMAN DUDLEY DEPONTE
 LICENSED PROFESSIONAL LAND SURVEYOR
 STATE OF HAWAII CERTIFICATE NO. 6980
 EXPIRATION DATE: 30 APRIL 2014

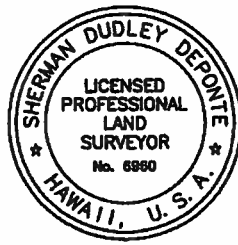


EXHIBIT "A"

AKAMAI LAND SURVEYING, INC.
 P.O. BOX 1748
 MAKAWAO, MAUI, HAWAII 96768

JOB NO.: 211175EXH-B
 SCALE: 1" = 200'
 T.M.K.:(2)2-4-02:Por 07
 DATE: 21MAR'12 SHEET 1 OF 1

EXHIBIT "A"

EXHIBIT B

RE: ESCROW INSTRUCTIONS

Regarding the purchase of 10.00 acres, more or less, of land at Makawao, Island of Maui, Hawaii, by the State of Hawaii, as Grantee, from Jordan Santos, a married man, as Grantor.

Escrow instructions have not yet been finalized as of this date, however, the State of Hawaii minimally requires the following instructions or their equivalent be included:

- Once deposited into escrow, the State of Hawaii funds shall not be released to the Grantor until the State of Hawaii, as Grantee, executes the deed for the subject property and duly records the same at the Bureau of Conveyances, Department of Land and Natural Resources.
- If closing is not accomplished by <<DATE TO BE SPECIFIED>>, the State of Hawaii funds shall be returned to the State of Hawaii.
- These instructions shall be mutually irrevocable.

ALAN M. ARAKAWA
Mayor

DAVID C. GOODE
Director

ROWENA M. DAGDAG-ANDAYA
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793

RALPH NAGAMINE, L.S., P.E.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

October 30, 2012

Mr. Ronald P. Han, Jr., Director
State of Hawaii Office of Veterans' Services
459 Patterson Road, E-Wing, Room No. 1-A103
Honolulu, Hawaii 96819-1522

Dear Mr. Han:

SUBJECT: EXPANSION OF MAKAWAO VETERANS CEMETERY

Pursuant to my October 12, 2012 letter to Neal S. Mitsuyoshi, Chief Engineering Officer, Department of Defense, advising him that the County of Maui Department of Public Works has submitted plans to its subdivision office for the creation of a new ten (10) acre lot to expand the Makawao Veterans Cemetery, the County of Maui would like to assure the State of Hawaii Office of Veterans' Services that it will be responsible for the maintenance of the expanded ten (10) acres.

Planning and coordination of the subdivision of the ten (10) acre parcel for the State to purchase is currently being handled by the County and the private land owner with the intent to re-consolidate this ten (10) acre parcel with the original seven (7) acre Makawao Veterans Cemetery. The State will then be able to return the 17 acre parcel back to the County by Executive Order.

Should you have any questions, please feel free to call me at (808) 270-7845.

Sincerely,

A handwritten signature in black ink, appearing to read "David C. Goode".

DAVID C. GOODE
Director of Public Works

DCG:jso

xc: Alan M. Arakawa, Mayor
Brian Hashiro, Highways Division Chief
Neal S. Mitsuyoshi, Chief Engineering Officer, Department of Defense
Russell Y. Tsuji, Land Administrator, Department of Land and Natural Resources
s:\rhan_ maintenance of expanded makawao veterans cemetery

EXHIBIT "C"